

Douglas Harris, General Manager
Veolia ES Technical Solutions, L.L.C.
7 Mobile Avenue
Sauget, Illinois 62201

Dear Mr. Harris:

The National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, 40 C.F.R. 63, Subpart EEE (“HWC MACT”) allows the owner or operator of a hazardous waste incinerator (HWI) to petition for a “waiver” of any performance test—initial or periodic performance test; comprehensive or confirmatory test. The petition must include the information specified in 40 C.F.R. § 63.1207(e)(3)(iii)(A) through (B). On July 29, 2009, Veolia ES Technical Solutions, L.L.C. ("Veolia" or "the company") submitted to the U.S. Environmental Protection Agency a waiver petition for a six-month extension for conducting the comprehensive performance tests at Incinerators 2, 3, and 4 that were scheduled to occur October 14, 2009. This letter is a response to that petition.

Qualifications for the waiver

As outlined in 40 C.F.R. § 63.1207(e)(3)(i)(A) through (C), the following conditions must be met to qualify for a waiver:

(A) You may not petition the Administrator for a waiver under this section if the Administrator has issued a notification of intent to deny your test plan(s) under § 63.7(c)(3)(i)(B);

(B) You must submit a site-specific emissions testing plan and a CMS performance evaluation test plan at least 1 year before a CPT is scheduled to begin as required by paragraph (c)(1) of this section, or at least 60 days before a confirmatory performance test is scheduled to begin as required by paragraph (d) of this section. The test plans must include all required documentation, including the substantive content requirements of paragraph (f) of this section and § 63.8(e); and

(C) You must make a good faith effort to accommodate the Administrator’s comments on the test plans.

Veolia has met these three qualifications. However, per 40 C.F.R. § 63.1207(e)(3)(iii)(A),

documentation must be provided to enable the Administrator to determine that the source is meeting the relevant standard(s) on a continuous basis as required by § 63.7(h)(2). This documentation was provided but the EPA cannot determine Veolia's compliance status due to the Findings of Violation that were issued to Veolia on September 27, 2006, and June 12, 2008, and which have not yet been resolved.

Despite the unresolved allegations of noncompliance, EPA recognizes the advantage of giving Veolia additional time to prepare for and conduct a comprehensive performance test. However, we believe that six months is unnecessary and unjustified and are only willing to grant you a four-month extension. The comprehensive performance test must thus be performed by February 16, 2010. This is a firm, non-negotiable date.

Please direct any questions that you have regarding this letter to Charles Hall, of my staff, at (312) 353-3443.

Sincerely,

George T. Czerniak
Chief
Air Enforcement and Compliance Assurance Branch